

REMARKS

Claims 1-53 and 68 are canceled. Claims 54-67 and 69-77 are pending and are rejected.

Claim Rejections – 35 USC §112. Claim 56 is rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 56 recites the limitation “the transverse distance” in lines 1-2. There allegedly is insufficient antecedent basis for that limitation in the claim. Claim 56 also recites the limitation “the central major plane” in line 3. There allegedly is insufficient antecedent basis for that limitation in the claim. Claim 56 is herein cancelled without prejudice to Applicant’s right to seek claims of similar scope. This renders all §112 rejections moot.

Claim Rejections-35 USC §102. At paragraph 7 of the Office Action claims 54-67 and 69-77 are rejected under 35 USC §102(e) as being anticipated by US Pat. No.7,083,577 to Osawa et al. (“Osawa”). That rejection is substantially identical to the §102(e) over Osawa rejection asserted at paragraph 7, page 5 of the prior, FINAL Office Action mailed 08/26/2008. Substantial claim amendments (e.g. to claim 70) and argument were made in the RCE filing in response to the 08/26/2008 Office Action in large part to more specifically distinguish Osawa et al. Yet it is indicated at paragraph 9 of this Office Action “Response to Arguments” that “Applicant’s arguments with respect to claims 54-67 and 69-77 have been considered but are moot in view of the new ground(s) of rejection.” Having received no explanation as to how previously amended claim 70 is still anticipated under 102(e) this Amendment has many of the same arguments as the RCE submission.

Bearing in mind the Examiner’s explanation in paragraph 1 of the prior Office Action of 08/26/2008, and in order to clearly distinguish the invention from Osawa et al. and the other prior art documents, the Applicant extensively revised Claim 70. Amended claim 70 now includes all the features of prior Claim 70, together with the feature of revised Claims 51 and 52. Additionally, when incorporating the feature of the revised Claim 51 into Claim 70, the ambiguity identified by the Examiner in paragraph 8 of the Office Action under the subheading “In reference to Claim 51” with respect to the spacing of the distal end of the reinforcing member from the distal end of the distal portion of the guide wire has been removed.

member from the distal end of the distal portion of the guide wire has been removed. Accordingly, when incorporating the feature of the revised Claim 51 into Claim 70, the location on the distal portion at which the reinforcing member terminates is now clearly claimed (using the actual language of the claim) as being axially spaced apart from the distal end of the distal portion to define with the distal end of the distal portion of the guide portion.

Thus, the distal end of the reinforcing member is now clearly claimed as being axially spaced apart from the distal end of the distal portion to define the guide portion between the distal end of the distal portion and the location at which the reinforcing member terminates. In other words, revised Claim 70 now clearly claims the guide portion which is illustrated in the drawings, and which is identified in Figs. 5 and 6 by the reference numeral 42, as being defined between the distal end 40 of the reinforcing member and the distal end 27 of the distal portion 18 of the guide wire which extends from the proximal end 26 to the distal end 27.

Accordingly, the revised Claim 70 is now directed towards a guide wire for use in a surgical or other procedure for accessing a remote site in the body of a human or animal subject, the guide wire

- (a) defining a longitudinally extending axis, and
- (b) terminating at one end in a proximal portion, and
- (c) at an axially opposite end in a distal portion for accessing the remote site, the distal portion
- (d) having a proximal end and a distal end, and
- (e) being of rectangular transverse cross-section defining
- (f) a pair of opposite major flat surfaces, joined by
- (g) a pair of opposite minor surfaces, and
- (h) terminating adjacent the distal end thereof in
- (i) a guide portion, the guide portion
- (j) being adapted to be shaped to a desired curved configuration for facilitating guiding of the guide wire into a branched vessel of the subject, and

(k) an elongated reinforcing member located on the distal portion of the guide wire for minimizing axial twisting of the distal portion between the proximal end of the distal portion and the guide portion thereof,

the reinforcing member

(l) having a proximal end and a distal end, and

(m) extending along one of the flat major surfaces of the distal portion of the guide wire

(n) from the proximal end of the distal portion

(o) to a location on the distal portion axially spaced apart from the distal end of the distal portion

(p) to define with the distal end of the distal portion the guide portion.

It is respectfully submitted that none of the prior art documents disclose a guide wire which includes all of features (a) to (p) of the revised Claim 70. In particular, none of the prior art discloses the provision of an elongated reinforcing member being located on the distal portion of a guide wire which extends from a proximal end of the distal portion of the guide wire to a location on the distal portion of the guide wire which is axially spaced apart from the distal end of the distal portion of the guide wire to define with the distal end of the distal portion the guide portion of the guide wire. It is precisely this latter feature (p) of Claim 1 which clearly distinguishes the invention from the prior art and provides the invention with its many advantages over the prior art.

The advantages of the invention are clearly set out in the present specification from page 8, line 22 to page 9, line 16. In particular, the provision of the reinforcing member provides the guide wire with the appropriate degree of rigidity in order to provide torsional rigidity to the guide wire, while at the same time by terminating the reinforcing member at a location axially spaced apart from the distal end of the distal portion of the guide wire to form the guide portion facilitates ready and easy bending of the guide portion prior to inserting the guide wire into the subject for facilitating manipulating the guide wire into a vessel which is branched off from the vessel through which the guide wire is being urged. By providing the reinforcing member, torsional rigidity of the distal portion is preserved so that rotation of the proximal end of the

guide wire results in a corresponding rotation of the distal end thereof and in particular the guide portion for aligning the guide portion with the branched vessel.

It is respectfully submitted that Osawa fails entirely to suggest or to disclose a guide wire which includes a reinforcing member which terminates at a location axially spaced apart from the distal end of a distal portion of the guide wire. In the embodiment of the guide wire of Osawa which is described with reference to Figs. 4A to 4C, 5A to 5C, and 8A-8C, cited by the Examiner, the distal end of the alleged reinforcing member identified by the Examiner coincides axially with the distal end of the distal portion of the guide wire. (See the following Osawa et al. Figs.)

Fig. 4-A

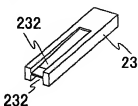


Fig. 4-B

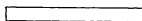


Fig. 4-C

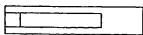


Fig. 5-A

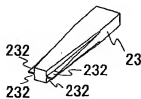


Fig. 5-B

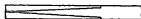


Fig. 5-C



Fig. 8-A

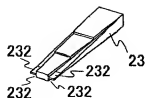


Fig. 8-B



Fig. 8-C



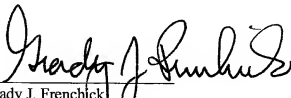
Figs. 4-A-4-C, 5-A-5-C and 8-A-8-C of Osawa et al. show nothing other than the exact cotermination of the distal end of the guide wire distal portion with any structure arguably being a reinforcing member. Accordingly, Osawa fails to disclose a guide wire with features (0) and (p) of revised Claim 70, namely, the provision of a reinforcing member on a distal portion of a guide wire which terminates at a location spaced apart from the distal end of the distal portion to define a guide portion of features (i) and (j) between the distal end of the distal portion and the location at which the reinforcing member terminates.

Since Claims 54-67 and Claims 71-77 are dependent either directly or indirectly on the revised Claim 70, it is respectfully submitted that since the revised Claim 70 should now be allowable, Claim 54-67 and 71-77 should likewise be allowable, and allowance is respectfully requested.

Claim 69, which is directed towards a catheter and a guide wire in combination, claims the guide wire as being a guide wire as claimed in Claim 70. Accordingly, Claim 69 is also dependent on Claim 70. Since Claim 70 should now be allowable, it is respectfully submitted that Claim 69 should likewise be allowable, and allowance is respectfully requested.

In view of the revisions which have been made to the claims and the above comments, it is respectfully submitted that the Application should now be in order for allowance, and allowance is respectfully requested.

Dated: Jan 19, 2010


Grady J. Frenchick
Registration No. 29,018

P.O. ADDRESS:

WHYTE HIRSCHBOECK DUDEK S.C.
33 East Main Street, Suite 300
Madison, Wisconsin 53703
(608) 255-4440 / Customer No. 56080